

(B) Defendant Emidio Piermarini, is and, at all times hereinafter mentioned, was an individual who resides in Cuyahoga Falls, Ohio, who is a manager and part-owner of Emidio & Sons, Inc., and who acted directly or indirectly in the interest of Emidio & Sons, Inc. in relation to its employees, and is an employer within the meaning of section 3(d) of the Act.

III

The defendants are and, at all times hereinafter mentioned, were engaged in related activities performed through unified operation or common control for a common business purpose, and, at all times hereinafter mentioned, were an enterprise within the meaning of section 3(r) of the Act.

IV

The defendants are and, at all times hereinafter mentioned, were an enterprise engaged in commerce or in the production of goods for commerce within the meaning of section 3(s)(1)(A) of the Act, in that said enterprise at all times hereinafter mentioned had employees engaged in commerce or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person and in that said enterprise had an annual gross volume of sales made or business done of not less than \$500,000.

V

Defendants have repeatedly and willfully violated the provisions of sections 6 and 15(a)(2) of the Act by paying their employees wages at a rate less than \$7.25 per hour when said employees were engaged in commerce or in the production of goods for commerce or were employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, as aforesaid. These violations resulted from the following

practices: paying employees an hourly or piece rate that was less than the minimum wage and requiring employees to reimburse Defendants for payroll tax obligations incurred by Defendants.

VI

Defendants have repeatedly and willfully violated the provisions of sections 7 and 15(a)(2) of the Act, by employing their employees, who in workweeks were engaged in commerce or in the production of goods for commerce, or who were employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, as aforesaid, for workweeks longer than forty (40) hours without compensating said employees for their employment in excess of forty (40) hours per week during such workweeks at rates not less than one and one-half times the regular rate at which they were employed. These violations resulted from Defendants failing to pay hourly and piece-rate employees an overtime premium for hours worked over forty in a workweek.

VII

Defendants, employers subject to the provisions of the Act, repeatedly and willfully violated the provisions of sections 11(c) and 15(a)(5) of the Act by failing to make, keep, and preserve adequate and accurate records of employees and the wages, hours, and other conditions and practices of employment maintained by them as prescribed by regulations duly issued pursuant to authority granted in the Act and found in 29 C.F.R. § 516, in that records fail to show adequately and accurately, among other things, the hours worked each workday and the total hours worked each workweek with respect to employees and the regular rates at which they were employed.

VIII

Defendants repeatedly violated the provisions of Sections 12(c) and 15(a)(4) of the Act by employing in and about their aforesaid places of business, a minor under 16 years of age who engaged in hazardous work by engaging in baking and cooking activities, in violation of 29 C.F.R. § 570.33(h); operated power-driven bakery machines, in violation of 29 C.F.R. § 570.62(a); and worked outside the time periods that minors 14 and 15 years of age may work, in violation of 29 C.F.R. § 570.35(a).

IX

During the period since April 20, 2013, Defendants have repeatedly and willfully violated the provisions of the Act as set forth above. A judgment which enjoins and restrains such violations and includes the restraint of any withholding of payment of unpaid minimum wage and overtime compensation found by the Court to be due to present and former employees under the Act is expressly authorized by section 17 of the Act.

WHEREFORE, cause having been shown, Plaintiff prays for judgment against Defendants as follows:

A. For an Order pursuant to section 17 of the Act, permanently enjoining and restraining Defendants, their officers, agents servants, employees, and those persons in active concert or participation with them from prospectively violating the Act; and

B. For an Order:

1. pursuant to section 16(c) of the Act, finding Defendants liable for unpaid minimum wage and overtime compensation due Defendants' employees and for liquidated damages equal in amount to the unpaid compensation found due their employees listed in the attached Exhibit A (additional back wages and liquidated

damages may be owed to certain employees presently unknown to Plaintiff for the period covered by this Complaint); or, in the event liquidated damages are not awarded,

2. pursuant to section 17, enjoining and restraining Defendants, their officers, agents, servants, employees, and those persons in active concert or participation with Defendants, from withholding payment of unpaid minimum wage and overtime compensation found due their employees listed in the attached Exhibit A (additional back wages may be owed to certain employees presently unknown to plaintiff for the period covered by this Complaint) and pre-judgment interest computed at the underpayment rate established by the Secretary of the Treasury, pursuant to 26 U.S.C. § 6621;

C. For an Order awarding Plaintiff the costs of this action; and

D. For an Order granting such other and further relief as may be necessary and appropriate.

Dated: February 25, 2016

/s/ Matthew M. Scheff
MATTHEW M. SCHEFF (0082229)
Trial Attorney

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EXHIBIT A

1. Ellen Conley (April 20, 2013 to August 23, 2014)
2. Luther Lopez (May 18, 2013 to May 31, 2014)
3. Tiara Mack (June 15, 2013 to July 5, 2014)
4. Tyree Mack (May 18, 2013 to June 7, 2014)
5. Jerry Perca Garcia (November 8, 2014 to December 13, 2014)
6. Chhabilal Poudel (June 28, 2014 to December 13, 2014)
7. Nai Lyi Tamah (November 9, 2013 to April 26, 2014)
8. Kyle Tucker (August 9, 2014 to December 13, 2014)